REMARKS

This Amendment is filed in connection with a Request for Continued Examination and is in response to the Final Office Action mailed Dec. 8, 2006 and the Advisory Action mailed Apr. 13, 2007. All objections and rejections are respectfully traversed.

Claims 20-43 are now pending in the case.

A claim numbering typographical error has been corrected, with a duplicitously numbered claim 34 renumbered as claim 41, and moved to the end of the claim listing. More detail regarding this correction is presented below.

No claims have been amended.

New claims 42 and 43 have been added.

Claim Numbering Typographical Error

The Applicant has noticed there was a claim numbering typographical error in the case, with two different claims both numbered as claim 34. The error appears to have not been noticed by the Examiner or the Applicant until this time. To correct the error, the Applicant has renumbered the first of the two claim 34's to be numbered claim 41, and has moved the claim to the end of the claim listing. By correcting the error in this manner, the wholesale renumbering of the claims is avoided.

As claim 41 was previously examined (as claim 34), and indeed previously indicated allowable if rewritten in independent form by the Examiner, the Applicant has used the status identifier "PREVIOUSLY PRESENTED."

If the Examiner believes there is any issue raised by this correction, the Examiner is invited to contact the Applicant's attorney at 617-951-2500 to discuss how the claim number error may be best resolved.

Claim Rejections - 35 U.S.C. §102

At paragraphs 1-2 of the Final Office Action, claims 20-23, 25, 28, 29, 31, 33, 35, 37 and 40 were rejected under 35 U.S.C. §102 as anticipated by Gai et al., U.S. Patent No. 6,031,194 (hereinafter Gai).

The Applicant notes that Gia was filed on Dec. 24, 1997, approximately 11 month before the Applicant's priority date. While the Applicant does not admit Gia has actual prior art status, even assuming arguendo Gia is prior art, the reference would not anticipate the Applicant's claims as explained below.

The Applicant's claim 20, representative in part of the other rejected claims, sets forth:

> 20. A computer readable medium containing executable program instructions for use by an intermediate network device having a plurality of ports for receiving and forwarding network messages, the executable program instructions comprising program instructions for:
>
> configuring one or more ports as access ports;
>
> ***configuring one or more access ports as rapid forwarding ports***;
>
> identifying all ports that have been configured as access ports with rapid forwarding; and
>
> ***upon initialization of the device, placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state, without transitioning such identified ports between any intermediary spanning tree port states***, so that network messages may be received and forwarded by such identified ports immediately.

Gia discloses a method and apparatus for rapidly reconfiguring a computer network. *See* abstract. "Upon start-up, the ports of each switch 230, such as switch 214, are initially placed in the listening state and spanning tree engine 235 begins formulating and transmitting bridge protocol data units (BPDU) frames." *See* col. 10, lines 1-4 (emphasis added to quotation). Eventually, "the spanning tree algorithm will converge." *See* col. 10, lines 22-25. At that point, "only one port (local or trunk) ***that represents a path from the access switch to the root***... will be forwarding. All other ports (local or trunk)

that represent paths from the access switch to the root will be blocked" (emphasis added). *see* col. 11, lines 8-15. Upon failure of the ***current root port***...the access switch [is caused] to immediately transition one of its blocked trunk ports to the forwarding state" (emphasis added). *See* col. 5, lines 43-44. Gia's Fig. 3D shows that "[i]n response to the detection of port number three (***the root port***), indicated at block 342, rapid reconfiguration entity 234 at switch 214 selects a backup port ***to become the new root port***, as shown at box 344...Rapid reconfiguration entity 234, at block 346, then directs the spanning tree state machine engine 236 to immediately transition the selected back-up port (e.g., port number four) to the forwarding state. That is, the spanning tree engine 236 does not transition the selected back-up port between listening or learning states" (emphasis added). *See* col. 12 lines 15-37.

First, the Applicant respectfully urges that Gia does not teach or suggest the Applicant's claimed "***placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state, without transitioning such identified ports between any intermediary spanning tree port states.***"

While the Applicant claims placing an ***access port*** with "rapid forwarding" directly to the forwarding spanning tree port state, Gia, in contrast, instead describes transitioning other types of ports (i.e., back-up ports that are may become the root port) into the forwarding state in certain circumstances. The Applicant defines an "access port" in the specification at page 16, lines 12-14, stating:

> An access port is a switch port 310 that does not provide connectivity to other portions of the bridged network, but is instead simply connected to a LAN, a server or an end station.

The back-up ports Gia discusses, which may be transitioned to become the root port, are not "access ports." A root port (and thus a back-up that may become a root port) provides connectivity to a root bridge by definition. Thus, such a port clearly provides connectivity to "other portions of a bridged network," rendering it quite different than the claimed "access port." Accordingly, as Gia's technique involves differing types of ports than those claimed by the Applicant, Gia does not anticipate the Applicant's claims.

Second, the Applicant respectfully urges that Gia does not teach or suggest the Applicant's claimed "***configuring one or more access ports as rapid forwarding ports***" and "***placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state.***"

Gia simply describes placing a backup port in a forwarding spanning tree state (sometimes abbreviated simply as "forwarding state" or "forwarding") in certain circumstances, such that it will forward packets, and is silent concerning configuring the port as a "***rapid forwarding port.***" While the Advisory Action suggests configuring a port as a "rapid forwarding port" and placing a port in forwarding spanning tree state are the same, stating "there are no distinction between the two since claim limitation of 'rapid forwarding' is not defined in such a way that would differentiate from Gia's limitation of forwarding," the Applicant respectfully disagrees and requests reconsideration.

MPEP 8th Edition, Revision No. 5, at §2111.01(I) provides (emphasis added):

> During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004) ***....This means that the words of the claim must be given their plain meaning unless **>the plain meaning is inconsistent with< the specification.***

Note, this section of the MPEP was changed in Revision No. 5 to make clear that meaning assigned to a terms should not be ***inconsistent with the specification.*** Thus, the prior standard, for example as recited in MPEP 8th Edition, Revision No. 4, that required "a clear definition in the specification" adverse to the interpretation, is no longer controlling.

The Applicant makes clear in the specification that "rapid forwarding" is different than the forwarding spanning tree state, and to equate the two would be inconsistent with the specification. For example, at page 17, line 18 to page 18, lines 2 of the Specification, the Applicant writes:

> The network administrator may further configure one or more access ports as "rapid forwarding". As described below, by configuring a port as rapid forwarding, the network administrator allows that port to be transitioned directly to the forwarding state upon initialization of the respective switch. Again, any conventional network configuration methods such as SNMP or CiscoWorks may be used and the designation of an access port as rapid forwarding is similarly maintained by the port configuration entity 318.

The passage makes clear that "rapid forwarding" is a designation that is maintained for a port that affects how the port transitions to the forwarding spanning tree state, and is not simply a another name for the forwarding spanning tree state itself.

Similarly, claim 20 recites "***placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state.***" The claim language itself again makes clear that designating a port as "rapid forwarding" is not the same as the forwarding spanning tree state, using both terms in the same sentence.

Accordingly, when designation of a port as "rapid forwarding" is accorded its proper meaning, it is clear that Gia's mention of the forwarding spanning tree state (or its abbreviations as "forwarding state" or simply "forwarding") refers to something very different than what is claimed. Accordingly, Gia does not anticipate this aspect of the claims.

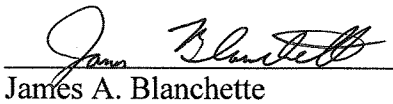
In summary, due to at least the first and second reasons presented above the Applicant respectfully urges that Gia is legally insufficient to anticipate the present claims under 35 U.S.C. §102.

Should the Examiner believe telephonic contact would be desirable in the disposition of this case, the Applicant encourages the Examiner to contact the Applicant's attorney at 617-951-2500 at any time.

All the independent claims are believed to be in condition for allowance and therefore all the dependent claims that depend there from are believed to be in condition for allowance. The Applicant respectfully solicits favorable action.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,



James A. Blanchette
Reg. No. 51,477
CESARI AND MCKENNA, LLP
88 Black Falcon Avenue
Boston, MA 02210-2414
(617) 951-2500